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REC'D _____ FILED du
CAMPBELL S. BURKE
CLERK U.S. DISTRICT COURT

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO

| | | |
|----------------------------|---|-------------------------------|
| IN RE: |) | |
| |) | |
| SAWTOOTH ENTERPRISES, INC. |) | CHAPTER 11 |
| |) | |
| |) | CASE NO. 96-03050 |
| |) | |
| |) | MOTION TO LIFT STAY AND TO |
| |) | TRANSFER THIRD-PARTY PROPERTY |
| |) | IN DEBTOR'S POSSESSION |
| <u>DEBTOR(S)</u> |) | |

TO THE ABOVE-NAMED COURT, THE DEBTOR, AND U.S. TRUSTEE:

PLEASE TAKE NOTICE, that, the undersigned, pursuant to 11 USC 362(d) and in accordance with LBR 4001.2, moves the court for relief from the automatic stay for the purpose of recovering property owned by the moving party, which is currently in the possession of the debtor.

Austin E. Stewart, II ("MR. STEWART"), a former officer of Debtor Sawtooth Enterprises, Inc., is the owner of record of certain restaurant equipment ("the equipment") currently in the possession of the debtor. The equipment, sold for a total of \$14,448.62 was purchased in February, 1996 for use by the debtor. At the time, Mr. STEWART and the debtor agreed that MR. STEWART would use his personal credit to apply for a loan with West One Bank to purchase the equipment, and the debtor would make the \$2,948.34 down payment and all installment payments until paid off in March, 1997.

The debtor made the down payment in February, 1996. Through September, 1996, debtor made regular payments of \$1,039 per month toward this obligation, as well as making one additional payment in November. Currently, approximately \$6,500 remains outstanding on West One Bank's loan for the equipment, and the payments are approximately 75 days past due. This obligation is now Loan

#15900187076148001 with US BANK, successor in interest to West One Bank.

MR. STEWART is the owner of record of this equipment, SEE, Contract dated 2/28/96 and attached UCC-1 financing statement, copies of which are attached as Exhibit "A" to this motion and made a part thereof. MR. STEWART's interest in the property is not being adequately protected by debtor's continued possession of the equipment. Debtor seeks to take possession of the equipment for the purpose of a voluntary repossession, returning it to the dealer for resale to pay off the balance of the installment loan. The equipment is not currently necessary for debtor's reorganization, since debtor has suspended operations, and since none of the equipment is essential in producing debtor's basic product - bagels. Therefore, MR. STEWART is entitled to possession of the equipment owned by him in order to satisfy his outstanding obligation, or, in the alternative, for debtor to satisfy all outstanding interest, principal, fees and costs associated with the loan and thereby retain the equipment.

As required by LBR 4001.2(b), the aforementioned restaurant equipment is itemized and valued as follows:

1. 1 ea. Crathco Disp. D25-4(3 gal. tank): \$500
2. 1 ea. Scotsman SCE170A Ice Machine: \$1,000
3. 1 ea. Star 502F French Plate Burner: \$450
4. 2 ea. 3 Comp. P434 LA Dry Bins: \$300 (\$150x2)
5. 1 ea. Lincoln Tomato King 043N: \$100
6. 3 ea. Cambro Dunnage Racks: \$450 (\$150x3)
7. Metro Seal Posts & Shelves: \$300
8. 2 ea. Hobart LX18H Dishwasher: \$3,000 (\$1,500x2)
9. 1 ea. Veg. Sink: \$150
10. 3 ea. Bus Carts: \$225 (\$75x3)
11. 2 ea. Vollrath HT7 Warmers: \$50
12. 1 ea. Amana RCS710B Microwave: \$150
13. Smallwares invoices (See UCC-1; Ex.A) \$300

The values stated are estimates, and may change based on the actual resale price secured by the dealer, BS&R Equipment Co., of Twin Falls, ID. The method used to value the items was an approximation of 40-50% of the original purchase price of the equipment, which is reasonable in light of the relatively short period of time the equipment has been in service. Documentation evidencing the obligation and security interest, as required by LBR 4001.2, has been provided as Exhibit "A" to this motion.

THEREFORE, MR. STEWART requests relief as follows:

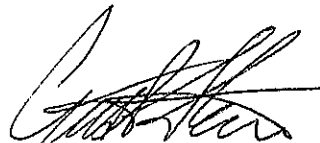
For relief from the automatic stay pursuant to 11 USC 362(d) with respect to any and all actions in federal or state court to recover possession of the equipment;

For an order directing the debtor-in-possession to allow MR. STEWART, or his agents, to physically remove the equipment from debtor's possession, or, in the alternative, for payment by the debtor of any and all interest, principal, fees and costs to fully satisfy the loan secured by the equipment;

In the event of physical repossession of the equipment by MR. STEWART, for an order directing reimbursement of MR. STEWART out of the debtor's estate of all costs and fees associated with said repossession as well as reimbursement out of the debtor's estate for any and all damage or casualty to the equipment caused while in the debtor's possession;

For any other relief the court deems proper.

12-9-96



Austin E. Stewart, II
PO Box 6097
Ketchum, ID 83340
(208) 726-2009


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of December, 1996, I caused a true and correct copy of the MOTION TO LIFT STAY, ETC., to be forwarded with all required charges prepaid, by the method(s) indicated below, to the following person(s):

| | | |
|-------------------------|---|-----------------|
| Moffat, Thomas, et. al. | | Hand Deliver |
| Debtor's Counsel | X | U.S. Mail |
| P.O. Box 829 | | FAX |
| Boise, ID 83701-0829 | | Federal Express |

| | | |
|----------------------------|---|-----------------|
| Sawtooth Enterprises, Inc. | | Hand Deliver |
| 3559 W. Wright St. | X | U.S. Mail |
| Boise, ID 83705 | | FAX |
| | | Federal Express |

| | | |
|------------------------|---|-----------------|
| Assistant U.S. Trustee | | Hand Deliver |
| PO Box 110 | X | U.S. Mail |
| Boise, ID 83701 | | FAX |
| | | Federal Express |


AUSTIN STEWART